



United States
**Office of
Personnel Management**

Washington, D.C. 20415

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In Reply Refer To

Your Reference

Subject: Medicare for Federal Employees

From: James W. Morrison, Jr.
Associate Director
for Compensation

To: Directors of Personnel

In our letter of December 10, 1982, we provided you with a fact sheet which incorporated policies concerning Medicare, formulated by the Health Care Financing Administration (HCFA) of the Department of Health and Human Services. We recently received a supplement to the original HCFA fact sheet and are providing you with a copy in order that you may continue to provide your employees current information on Medicare.

Enclosure

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MEDICARE FOR FEDERAL EMPLOYEES - SUPPLEMENT TO FACTSHEETI. Enactment of Section 309 of P.L. 97-448

Under section 278 of P.L. 97-248 as originally enacted, family members of a Federal employee who was not insured except for the use of deemed Federal quarters of coverage (FQC's) for service prior to January 1983, could not be entitled to hospital insurance (HI) based on the employee's record unless the employee was also entitled to HI. This differed from the rule applicable to family members of a Federal employee who was insured without the use of deemed FQC's or to family members of an individual insured under Social Security. Such family members can be entitled to HI without the employee being entitled to HI; it is only necessary that the employee be insured. (See items I, IV, and VI of the original Factsheet.)

Section 309 of P.L. 97-448, enacted on January 12, 1983, has amended section 278 of P.L. 97-248 to permit all family members to qualify for HI, regardless of whether deemed FQC's are used to establish that the employee is insured, without need for the employee to be entitled to HI also. This provision is retroactive to January 1, 1983.

Example: Jane is the 65-year old spouse of Bill, a 62-year old Federal employee. Under P.L. 97-248 as originally enacted, if Bill were insured only by using deemed FQC's, the earliest that Jane could have been entitled to HI was the month her husband attained age 65; and, if he died before attaining age 65, she could not be entitled at all. On the other hand, if Bill was insured without using any deemed FQC's, Jane could be entitled to HI at age 65 since her husband was over age 62 in that month and insured. She could also be entitled at age 65 if Bill died before he attained age 65. Under section 309 of P.L. 97-448, it makes no difference whether deemed FQC's were used to insure Bill. In either event, Jane can be entitled to HI at age 65.

II. Establishing Deemed FQC's for Service Prior to 1/83

Section X. of the original Factsheet discusses in subsection C. what proofs are necessary to establish deemed FQC's for years prior to 1983. It has been determined that the SF-2801-1, "Certified Summary of Federal Service", does not give sufficient wage data to determine the number of deemed FQC's. The form merely gives a cumulative record of the employee's Federal service. Thus, while the form may be used to establish that the individual was a Federal employee during January 1983 (making the employee eligible for deemed FQC's), it will be necessary to obtain either the SF-2806, "Individual Retirement Record", or a signed statement from the employing agency in assigning deemed FQC's if W-2's are not available.

*Secret
Security
File*

*... agrees that
We should include Medicare
7/7/83*

PROPOSED AMENDMENT TO SOCIAL SECURITY ACT LEGISLATION

PROTECTION OF NATIONAL SECURITY ACTIVITIES

SEC. _____. (a) Notwithstanding any other provision of this Act, of the Social Security Act (Public Law 74-271, as amended), or of subtitle C or chapter 2 of subtitle A of title 26, United States Code, with respect to the personnel of any department or agency within the Intelligence Community (as defined in subsection 3.4(f) of Executive Order 12333, December 4, 1981 or successor orders), this Act, the Social Security Act, and subtitle C and chapter 2 of subtitle A of title 26, United States Code, shall be administered in a manner consistent with the protection of the identities of such personnel and consistent with the protection of intelligence sources, methods, and activities, under such regulations as the Secretary of Health and Human Services, the Secretary of the Treasury, and the Director of Central Intelligence shall jointly prescribe.

(b) The regulations required by subsection (a) of this section shall be prescribed and administered without regard to chapter 5 of title 5, United States Code, and shall be exempt from any requirement for publication or disclosure. Such regulations shall include, but shall not be limited to, procedures for secure handling of information, records, tax revenues, and benefit payments.

EXPLANATION

After January 1, 1984, all newly hired federal employees will be covered under the Social Security system, including newly hired employees of United States intelligence agencies. Incorporating U.S. intelligence personnel into the Social Security system, particularly into its records systems and data bases, presents a clear danger of compromising the identities of intelligence personnel and intelligence sources, methods, and activities.

Subsection (a) of the proposed amendment grants joint authority to the Secretary of Health and Human Services (for the Social Security Administration), the Secretary of the Treasury (for the Internal Revenue Service), and the Director of Central Intelligence (for the Intelligence Community) to provide regulations for implementing the Social Security Act and related Internal Revenue Code provisions in a manner protecting the security of U.S. intelligence activities and personnel. The subsection does not exempt newly hired U.S. intelligence personnel from coverage in the Social Security system; it only provides that with respect to U.S. intelligence personnel the system will be administered in a manner which preserves the secrecy of intelligence matters.

Subsection (b) of the proposed amendment provides the secrecy necessary in the prescription and administration of the joint regulations required under subsection (a), by providing for the inapplicability of the Administrative Procedures Act and of laws which would require the publication or disclosure of the joint regulations. The subsection also ensures that, at a minimum, the joint regulations will provide for security in handling information, records, tax revenues, and benefit payments with respect to intelligence personnel.

INTERNAL USE ONLY

EXPLANATION

- (1) Provides for joint regulations to protect intelligence equities in administering the following laws:

"This Act"--H.R. 1900, the current Social Security Act amendments legislation

"the Social Security Act"--P.L. 74-271 as amended over the years

"subtitle C . . . of title 26"--the employment taxes provisions of the Internal Revenue Code.

"chapter 2 of subtitle A of title 26"--the self-employment income tax provisions of the Internal Revenue Code.

- (2) Protects intelligence equities on an Intelligence Community-wide basis.
- (3) Protects against compromise of identities of personnel.
- (4) Protects against compromise of intelligence sources, methods, and activities.
- (5) Provides that promulgation and administration of the joint regulations shall not be subject to the Administrative Procedures Act so that the following do not apply:
- normal notice-and-comment rulemaking requirements applicable to federal agencies.
 - formal adjudication requirements normally applicable to federal agencies.
- (6) Provides that the joint regulations shall be exempt from publication or disclosure (e.g., under FOIA).
- (7) Specifically provides that the joint regulations must at least provide for secure handling of information and transactions.
- (8) Note that administration of the laws "consistent with protection" of intelligence equities would, if necessary, require appropriate handling of records/cases involving people who are not themselves intelligence personnel, e.g., spouses and dependents of undercover personnel if their entitlements are due to the Social Security coverage of an intelligence employee.

INTERNAL